

REMARKS

Claim 15 has been amended so as to overcome the rejection of the claim under 35 USC112. Claims 2-13 and 15-19 are now pending in this case.

In view of the foregoing amendments to this application and the following remarks, it is respectfully submitted that the claims of this application are now in condition for allowance, and such favorable action is respectfully requested.

Claims 3, 4, 13, 16-19 were rejected under 35 U.S.C. 103(a) as being unpatentable over Tsugane et al. (Tsugane; 5,657,370) in view Holshouser et al. (Holshouser; 6,151,486). Claim 2 was rejected under 35 U.S.C. 103(a) as being unpatentable over Tsugane et al. (Tsugane; 5,657,370) and Holshouser et al. (Holshouser; 6,151,486), and further in view of the Applicant's admitted prior art (fig. 4). Claim 5 was rejected under 35 U.S.C. 103(a) as being unpatentable over Tsugane et al. (Tsugane; 5,657,370) in view Holshouser et al. (Holshouser; 6,151,486), and further in view of Bremer (6,018,671). Claims 6, 7 and 18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Rudisill et al. (Rudisill; 6,208,874) in view of Holshouser et al. (Holshouser; 6,151,486).

In the rejection of claims 2-5, 13 and 16-19 the Examiner's logic in using the Tsugane et al. reference as the primary reference was that:

"Tsugane teaches a telephone comprising: a first part (fig. 1, item 21), a second part (fig. 1, item 22) attached to

the first part and movable between a first position and a second position (i.e., open and close position fig. 1, item 26); an antenna coupled to the first part (fig. 1).

In the second part, there is a keyboard for providing control input information to the radio transceiver (fig. 1, item 25), and a grip design for allowing a user to hold the telephone by the second part (fig. 1, item 22).

An arrangement for attaching a battery is inherently in Tsugane. However, Tsugane does not explicitly show the arrangement of attaching the battery to the second part parallel to the keyboard.

Nevertheless, the claimed limitation is a matter of design preference, and it is very well-known in the art as evidenced by Holshouser.

Holshouser teaches an arrangement for attaching a battery to a second part parallel to the keyboard (figs. 6B; 7, item 75; fig. and 9, item 95). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include a battery in order to power the telephone."

It is respectfully submitted that none of the references cited by the Examiner disclose or even remotely suggest applicants claimed invention whether these references are considered by themselves or in any combination with one another. The plain and simple fact of the matter is that the Examiner has completely distorted the actual teaching of the cited references to try and reject the claims. This type of rejection is both not proper and legally incorrect.

It is respectfully strongly recommended that the Examiner again read applicants specification to familiar himself with the specific features of the present invention. Once the specification is again read it would be almost impossible to

conclude that the present invention is obvious in view of the cited prior art.

The Examiner is again reminded that the present invention relates to the structure of a telescopically expanding telephone and to the location of its various elements. The object of the present invention is to introduce a telephone which is small in the transport position, but is still provided with a large-size user interface. Another object of the present invention is that the telephone is made easy to use, durable and ergonomic. Still another object of the present invention is that in the regular usage position, the telephone antenna does not fall in the shadow of the user's hand.

The objects of the present invention are achieved by locating, in the upper part of the telephone, an antenna and the radio frequency parts, among others; and in the lower part, the power source and the major part of the keys, among others. The lower part and the upper part are movably attached to each other, so that the telephone has a small-size transport position and a larger-size operating position.

The telephone according to the features of the present invention comprises a first part and a second part attached thereto, the second part being movable in relation to the first part between a first position and a second position. The invention is characterized in that in the first part comprises a radio transmitter/receiver and a connected antenna, and the second part an arrangement for fastening a battery to the second part.

The Examiner cites item 22 in Tsugane's fig. 1 as anticipating applicants' claimed "grip design" feature. Item 22 in Tsugane's

fig. 1 is defined as a "lower housing" in Tsugane's description. Applicant fails to find any references whatsoever to grip designs in the Tsugane disclosure. Apparently the Examiner interpretes the group of parallel lines on one side surface of the lower housing illustrated in Tsugane's fig. 1 as a grip design. However, in the absence of any actual teaching, a person skilled in the art could very well interpret these lines as just the draftsman's view of the optimum way of representing a side surface in a drawing. Nothing else!

Another major drawback of Tsugane's fig. 1 as a representative of the prior art that render the present invention obvious is the complete absence of any disclosure or suggestion regarding the location of a radio transceiver within the parts of the illustrated portable telephone. In their independent claims applicant's require the radio transceiver be located in a different part than the keyboard. Tsugane teaches that the upper part of the portable telephone in fig. 1 comprises a "telephone receiving section 23" while the lower part comprises a "telephone transmitting section 24." However, reference designators 23 and 24 only seem to designate a loudspeaker and a microphone respectively.

Furthermore, it is respectfully submitted that the examiner admitted that the Tsugane reference is silent on the location of a battery in the portable telephone in fig. 1, and cites figs. 6B, 7 and 9 of Holshouser to make up for this deficiency in Tsugane. However, it is submitted that Holshouser's fig. 7 does not show a battery at all. The reference designator 75 cited by the Examiner designates a "bottom housing portion." In his figs. 6B and 9, Holshouser illustrates a battery (64, 95) schematically as a component of an electrical schematic diagram

without giving any hints about its actual appearance or location. Applicant does not debate the fact that a mobile telephone is known to include a battery, but the Examiner is reminded that applicant claims a structure where the battery has a specific location with respect to certain other parts of a mobile telephone. The specific location of the battery is significant. Such a specific structure is neither disclosed nor suggested by the schematic diagrams of Holshouser.

In fact, if one combines the teachings of figs. 6B and 2 in Holshouser, one may arrive at an interpretation according to which the battery is located in the same part with the radio frequency parts, the antenna and the keyboard. Such an arrangement is equal to that of applicants' admitted prior art in figs. 7 and 9, i.e. it would teach a person skilled in the art to put the battery and keyboard into different parts of the mobile telephone.

Regarding possible interpretations of the location of a battery in the Tsugane reference, applicant points at Tsugane's fig. 2B as well as figs. 4A-4C and 5, all of which share the feature of the lower (keyboard) part being relatively thin and small compared to the upper part. The battery is the most space-consuming single component in a mobile telephone, which certainly does not encourage placing it into the clearly smaller one of the movable parts.

Neither Holshouser alone, nor its various combinations with Tsugane can, by any stretch of the imagination, be said to anticipate applicants' claimed structure where the lower part of the device includes a keyboard, a grip design and means for attaching a battery to the lower part parallelly with the

keyboard, while an upper part of the same device includes the radio frequency parts and the antenna.

It is respectfully submitted that the Examiner's rejection is completely without legal merit because it is based on a rejection where items in cited prior art are alleged to show something else other than what the actual disclosure of the prior art suggests. It is respectfully submitted that if the Examiner is not able to produce more convincing evidence, then it is strongly suggested that the various rejections of the claims under 35 USC103(a) be dropped and the claims be allowed.

Rudisill et al. describes a telephone that is provided with a first housing and a second housing slideably secured to the first housing for movement between an open position and a closed position, the second housing projecting out from the first housing in the open position. The telephone also includes an antenna pivotably attached to the second housing. A position control mechanism is provided to pivot the antenna away from the second housing, and a guide is provided to secure the antenna against pivoting when the second housing is in the closed position. Whether considered by itself or in combination with Holshouser et al., there is simply no teaching or suggestion of applicants claimed invention.

It is submitted that the Office Action itself is confusing and needs clarification for applicant to make a complete response. For example, the Office Action summary states that claim 15 is rejected. However, there is absolutely no specific rejection or support for such a rejection in the body of the Office Action. Does Applicant assume claim 15 to be rejected or allowed? Furthermore, claims 6, 7 and 18 were rejected under 35 USC103(a)

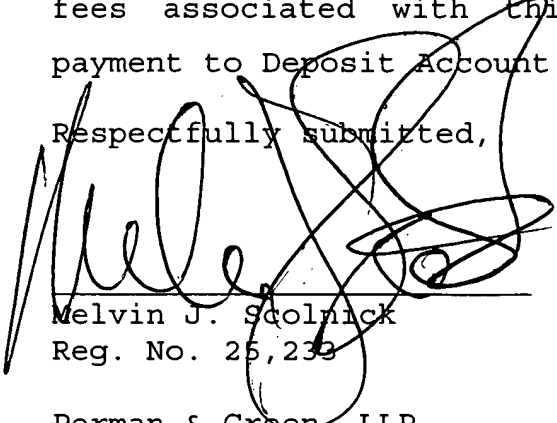
as unpatentable over Rudisill et al. in view of Holshouser et al. However, in explaining the supporting reasons for this rejection the Examiner uses the Rudisill et al., Tsugane and Holshouser et al. references. Clarification is requested.

It is respectfully requested that if the Examiner does not agree that all the claims of this application are allowed, that this amendment be entered to place this application in better condition for appeal.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,



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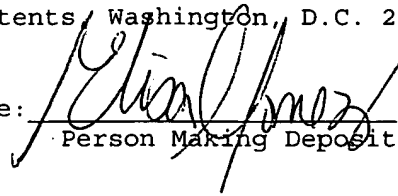
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Marked Up Claim(s)

15. (Amended) A telephone according to claim [1] 18, additionally comprising a protecting shell of the first part, wherein said antenna is a plane antenna located inside said protecting shell of the first part.